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09 JAN 2007

In re Application of	:	
Del Soldato et al.	:	
Application No.: 10/522,986	:	DECISION
PCT No.: PCT/EP03/08700	:	
Int. Filing Date: 06 August 2003	:	ON
Priority Date: 29 August 2002	:	
Attorney Docket No.: 026220-00061	:	PETITION
For: Process For Preparing Nitrooxylalkyl Substituted	:	
Esters Of Carboic Acids, Intermediates Useful In	:	
Said Process And Preparation Thereof	:	

This is in response to the renewed petitions under 37 CFR 1.47(a) filed on 06 June 2006 and 13 September 2006.

DISCUSSION

In a Decision mailed on 25 May 2006, the petition under 37 CFR 1.47(a) filed on 15 September 2005 was dismissed without prejudice because

Counsel has presented an "Affidavit" signed by Maria Teresa Noro which states that she sent parcels to Mr. Del Soldato and to his attorney on 02 May 2005 and 23 May 2005, each such parcel including "a copy of the entire application" and a "USA/Assignment and Declaration" for each of four applications, requesting that he sign and return "said documents," but "Mr. Piero Del Soldato never sent back to me these documents." However, neither the "Affidavit" nor the supporting documentation clearly establishes that any of the documents in question pertained to the instant application number. Though the title of one of the applications referenced in the "Affidavit" superficially resembles the title of the instant application, such resemblance does not establish that Atty. Noro sent a declaration and a copy of this application to be executed by Mr. Del Soldato. In the absence of a clear showing that Mr. Del Soldato refused to execute this specific application after being presented with a copy of this application specifically, and an oath or declaration directed to it, it would not be appropriate to conclude that his conduct constitutes a refusal within the meaning of 37 CFR 1.47(a).

The renewed petition filed on 13 September 2006 was accompanied by a declaration executed by Piero Del Soldato, along with the other inventors nominated in the published international application. Inspection of this declaration reveals that it is in compliance with the requirements of 37 CFR 1.497(a) and (b). Therefore, the petition under 37 CFR 1.47(a) is MOOT.

DECISION

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**, without prejudice.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is **13 September 2006**.



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